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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

1. **WRIT PETITION NO. 4141 OF 2006**

The Dairy Manager,
Govt. Milk Scheme, At & Post Kherdi,
Tal. Chiplun, Dist. Ratnagiri & anr. ... Petitioners
V/s
Pandurang Sitaram Jadhav ... Respondent

ALONGWITH

2. **WRIT PETITION NO. 4142 OF 2006**

The Dairy Manager,
Govt. Milk Scheme, At & Post Kherdi,
Tal. Chiplun, Dist. Ratnagiri & anr. ... Petitioners
V/s
Shashikant Shivram Salvi ... Respondent

ALONGWITH

3. **WRIT PETITION NO. 4143 OF 2006**

The Dairy Manager,
Govt. Milk Scheme, At & Post Kherdi,
Tal. Chiplun, Dist. Ratnagiri & anr. ... Petitioners
V/s
Dilip Krishna Naniskar ... Respondent

ALONGWITH

4. **WRIT PETITION NO. 4144 OF 2006**

The Dairy Manager,
Govt. Milk Scheme, At & Post Kherdi,
Tal. Chiplun, Dist. Ratnagiri & anr. ... Petitioners
V/s
Vasant Tukaram Bhuran ... Respondent

ALONGWITH

5. **WRIT PETITION NO. 4145 OF 2006**

The Dairy Manager,
Govt. Milk Scheme, At & Post Kherdi,
Tal. Chiplun, Dist. Ratnagiri & anr. ... Petitioners
V/s
Mohammed Daud Karbhari ... Respondent

ALONGWITH

6. **WRIT PETITION NO. 4146 OF 2006**

The Dairy Manager,
Govt. Milk Scheme, At & Post Kherdi,
Tal. Chiplun, Dist. Ratnagiri & anr. ... Petitioners
V/s
Narayan Mahadeo Panchagane ... Respondent

ALONGWITH

7. **WRIT PETITION NO. 4147 OF 2006**

The Dairy Manager,
Govt. Milk Scheme, At & Post Kherdi,
Tal. Chiplun, Dist. Ratnagiri & anr. ... Petitioners
V/s
Sandeep Tukaram Surve ... Respondent

ALONGWITH

8. **WRIT PETITION NO. 4148 OF 2006**

The Dairy Manager,
Govt. Milk Scheme, At & Post Kherdi,
Tal. Chiplun, Dist. Ratnagiri & anr. ... Petitioners
V/s
Dinesh Waman Veer ... Respondent

ALONGWITH

9. **WRIT PETITION NO. 4149 OF 2006**

The Dairy Manager,
Govt. Milk Scheme, At & Post Kherdi,
Tal. Chiplun, Dist. Ratnagiri & anr. ... Petitioners
V/s
Vijay Bala Date ... Respondent

ALONGWITH

10. **WRIT PETITION NO. 4150 OF 2006**

The Dairy Manager,
Govt. Milk Scheme, At & Post Kherdi,
Tal. Chiplun, Dist. Ratnagiri & anr. ... Petitioners
V/s
Vasant Mahadeo Kadam ... Respondent

ALONGWITH

11. **WRIT PETITION NO. 4151 OF 2006**

The Dairy Manager,
Govt. Milk Scheme, At & Post Kherdi,

Tal. Chiplun, Dist. Ratnagiri & anr. ... Petitioners
V/s
Sitaram Narayan Salvi ... Respondent

AND

12. **WRIT PETITION NO. 4152 OF 2006**

The Dairy Manager,
Govt. Milk Scheme, At & Post Kherdi,
Tal. Chiplun, Dist. Ratnagiri & anr. ... Petitioners
V/s
Vasant Sitaram Mane ... Respondent

Mr. A.A. Kumbhakoni, Associate Advocate General for the petitioners.

Mr. S.M. Dharap i/by Mr. Neel G. Helekar for the respondent No.1.

**CORAM: SMT. NISHITA MHATRE, J.**

**DATED: 10TH JULY, 2007.**

**P.C.:**

1. These writ petitions impugn the orders of the Industrial Court passed in Complaint (ULP) Nos. 951 to 954 of 2001, 957 to 962, 4 of 2002 and 268 of 2000. The complaints were filed alleging an unfair labour practice under Items 5, 6 & 9 of Schedule IV of the M.R.T.U. & P.U.L.P. Act, 1971. By the orders dated 28.4.2004 passed in Complaint (ULP) Nos. 957 to 962 of 2001 and 4 of 2002 and the order dated 15.6.2005 in Complaint (ULP) No. 268 of 2000, the Industrial Court has held that the petitioners have committed an unfair labour practice under Items 5, 6 & 9 of Schedule IV of the Act. All

complainants were directed to be made permanent in employment from the date they completed 240 days in service. The petitioners were directed to extend the benefits of permanency to the complainants who are the workmen in these petitions.

3. Mr. Kumbhakoni appearing for the petitioners submits that the Industrial Court was in error in passing these orders when there are no vacancies and there are no sanctioned posts available with the petitioners to accommodate the workmen. He submits that, in view of the judgment of the Supreme Court in the case of **Secretaries, State of Karnataka & ors. v/s Uma Devi & ors. reported in (2006) 4 SCC 1,** the Industrial Court ought not to have passed the impugned orders. He relies on the observations made by the Supreme Court to the effect that regularization in the posts should be undertaken or directed only when there are vacancies and there are sanctioned posts.

4. In the present case, admittedly, the respondent workmen were employed in the Dairy run by the Government Milk Scheme. The Dairy is a factory, employing more than 50 employees. Consequently, the Industrial Employment (Standing Orders) Act would be applicable to the undertaking. There are no Certified Standing Orders

applicable to the Dairy and, therefore, the Model Standing Orders would govern the employment of the workmen of the undertaking. Under the Model Standing Orders, the employees are entitled to be made permanent after they complete 240 days in service.

5. Therefore, in my view, **Uma Devi**'s case does not apply to the facts and circumstances in the present case. The Supreme Court was not dealing with an industrial establishment to which the Industrial Employment (Standing Orders) Act applies.

6. Therefore, writ petitions rejected.

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